

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-6429

HERBERT HIGHTOWER,

Petitioner - Appellant,

versus

MICHAEL MOORE, Commissioner; ATTORNEY GENERAL
OF THE STATE OF SOUTH CAROLINA,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Orangeburg. Patrick Michael Duffy, District
Judge. (CA-97-490-5-23JI)

Submitted: May 28, 1998

Decided: June 10, 1998

Before ERVIN, LUTTIG, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Herbert Hightower, Appellant Pro Se. Donald John Zelenka, Chief
Deputy Attorney General, Lauri J. Soles, OFFICE OF THE ATTORNEY
GENERAL OF SOUTH CAROLINA, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellant seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1998). Appellant's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1994). The magistrate judge recommended that relief be denied and advised Appellant that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Appellant failed to file timely objections in the district court. Thus, the district court, after reviewing the magistrate judge's report and recommendation, adopted the magistrate judge's report and recommendation and dismissed the case. Appellant appeals. The filing of timely objections to a magistrate judge's report and recommendation is necessary to preserve appellate review of the substance of the report. See United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). Because Appellant failed to file objections after receiving notification of the need to file such objections, he waived his right to appellate review. Accordingly, we deny a certificate of appealability and dismiss the appeal. Hightower v. Moore, No. CA-97-490-5-23JI (D.S.C. Mar. 3, 1998). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED